HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.748 of 2007

Between:

Pittala Sathaiah and five others

… Appellants

And

The District Collector,
Ranga Reddy District and five others

… Respondents

Counsel for the appellants: Shri Sadu Rajeshwar Reddy

::JUDGMENT::

September 17, 2007

Per G.S. Singhvi, CJ

This is an appeal for setting aside the order of the learned Single Judge whereby he dismissed the writ petition filed by the appellants for quashing Memo dated 22.7.1996 issued by District Collector, Ranga Reddy (respondent No.1 herein) and for restoration of the possession of land measuring Ac.5-02 gts. comprised in

Survey No.48/55 situated at Katedan, Shivarampally Village, Rajendranagar Mandal, Ranga Reddy District (hereinafter described as 'the subject land').

In the writ affidavit filed by him, appellant No.1 – Pittala Sathaiah, averred as under:

1) that the subject land was allotted to his mother Pittala Narsamma by the Nizam Government in 1950;

2) that at the time of allotment, his age was 7 years and he used to go to the field along with his mother and that his mother used to cultivate the land;

3) that after growing up, he along with his mother dug a borewell and converted the dry land into wet land;

4) that the land continued in their possession up to 1972 and they were dispossessed by Kum. P. Sabitha Bhaskar Reddy of the Industries Department;

5) that he made representation dated 28.3.1995 to respondent No.1 for issue of pahanis of Survey No.48/55 for the years 1954 to 1995, but Deputy Tahsildar, Rajendranagar Mandal, Ranga Reddy District declined to issue copies of pahanis on the premise that for the years 1954-55 and 1965-66 pahanis are in the name of the government, for the years 1980-81 to 1988-89, the same are in the name of the Industries Department and for the years 1989-90 to 1993-94, the land is shown in the name of APIIC and,

6) that legal notice dated 18.6.1996 issued by his advocate for furnishing certified copies of the pahanis in respect of the subject land was rejected by Mandal Revenue Officer, Rajendranagar Mandal (respondent No.3 herein) and the demand made by him

for restoration of his name in the revenue records was rejected by respondent No.1 vide Memo dated 22.7.1996.

The learned Single Judge dismissed the writ petition on the ground of unexplained delay of eleven years in approaching the Court for assailing Memo dated 22.7.1996 and also on the ground that contentious issues of fact relating to allotment of land to Smt.Pittala Narsamma and her dispossession by Kum.P. Sabitha Bhaskar Reddy of the Industries Department cannot be adjudicated by the High Court under Article 226 of the Constitution.

We have heard Shri Sadu Rajeshwar Reddy, learned counsel for the appellants and scrutinised the record. In our opinion, the writ petition filed by the appellants was not only misconceived but a vexatious piece of litigation and the learned Single Judge did not commit any error by declining to entertain the appellants' prayer for restoration of the subject land to them.

In paragraph 2 of the writ affidavit filed by him, appellant No.1 averred that the subject land was allotted to his mother by the Nizam Government in 1950 and the same remained in their possession up to 1972. This assertion cannot be accepted and acted upon because the appellants have not produced any evidence before the Court to substantiate the same. That apart, a perusal of the statement (pages 36 and 37 of the paper book of the appeal), which contain particulars of the land comprised in Survey Nos. 48 and 48/55 of Katedan Village, reveals that the government was recorded as pattadar in respect of Survey No.48 measuring Ac.379.37 gts. from 1954-55 to 1967-68. In 1968-69, the land in Survey No.48/55 (Ac.5.02 gts.) was shown in the name of Pittala Narsimha and Pittala Sattayya. In 1969-

70, the land in that survey number was shown in the name of Pittala Narsamma. From 1973-74 to 1979-80, the same land was shown in the name of Kum. P. Sabitha Bhaskar Reddy, from 1980-81, the same land is recorded in the name of Industries Department and from 1990-91, APIIC has been shown as the pattedar. If the subject land had been allotted to Smt. Pittala Narsamma by the Nizam Government in 1950 and she continued in possession till 1972, there is no reason why her name was not recorded as pattadar in pahanies from 1954-55 to 1967-68. Why this was not done requires a detailed investigation into the issues of facts and that exercise cannot be undertaken by the High Court in exercise of power under Article 226 of the Constitution. Therefore, the conclusion recorded by the learned Single Judge that the remedy of writ is not available to the writ petitioners (the appellants herein) does not suffer from any error warranting interference under Clause 15 of the Letters Patent.

The other conclusion recorded by the learned Single Judge that the writ petition was highly belated also merits our approval. As per the appellants' own showing, appellant No.1 and his mother were dispossessed by Kum.P. Sabitha Bhaskar Reddy in 1972. The writ petition was filed in January, 2007 i.e. after a gap of 35 years from the year of the alleged dispossession. The appellants have not explained this long delay. Therefore, there is no escape from the conclusion that they are guilty of laches and the learned Single Judge rightly non-suited them.

The applications made by appellant No.1 in 1995 and 1996 to the district authorities for supply of certified copies of the pahanis and replies dated 4.6.1996, 22.6.1996 and 22.7.1996 sent by Deputy

Tahsildar, Rajendranagar Mandal, Mandal Revenue Officer, Rajendranagar Mandal and District Collector, Ranga Reddy, respectively cannot be made basis for overlooking the delay of 35 years counted from the date of the alleged dispossession of appellant No.1 and his mother. In any case, the Court cannot overlook the time lapse of more than 10 years and six months in filing the writ petition against Memo dated 22.7.1996.

The law on the subject is well settled. Though no limitation has been prescribed for filing a petition under Article 226 of the Constitution of India, the Courts have generally declined relief to the petitioner if he is found guilty of laches - **State of Madhya Pradesh v. Bhailal Bhai**[1], **Tilokchand v. H.B. Munshi**[2], **Mafatlal Industries Ltd. v. Union of India**[3].

In the result, the appeal is dismissed. We would have saddled the appellants with exemplary costs, but refrain from doing so because they appear to have been misled in filing the writ petition after a long time gap of 35 years.

As a sequel to dismissal of the appeal, WAMP No.1497 of 2007 filed by the appellants for interim relief is also dismissed.

G.S. SINGHVI, CJ

September 17, 2007

C.V. NAGARJUNA REDDY, J

svs

[1] AIR 1964 SC 1006

[2] AIR 1970 SC 898

[3] JT 1996 (11) SC 283